



DT20 Rec'd PCT/PTO 20 AUG 2003

PATENT
Attorney Docket 045636-5056

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Alexandra Gruss et al.**)
)
Application No. **10/088,657**) Group Art Unit: **To be determined**
)
Date of National Stage Entry: **March 20, 2002**) Examiner: **To be determined**
)
International Filing Date: **September 20, 2000**)
)
For: **Lactic Acid Bacteria Transformed To Be**)
Provided With Respiratory Metabolism)

Mail Stop PCT
Assistant Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza, Lobby, Room 1B03
Arlington, VA 22202


TRANSMITTAL FORM

1. Transmitted herewith is a Petition and Response responding to the Decision on Request Under 37 C.F.R. § 1.42 dated February 20, 2003.
2. Additional Papers Filed:
 - (i) Combined Declaration for Patent Application and Power of Attorney.
 - (ii) Statement in French naming heirs of deceased joint inventor Patrick Duwat.
 - (iii) English translation of the statement.
 - (iv) Declaration of translator.
3. Extension of Time: The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply. Applicants petition for a four-month extension of time from April 20, 2003 to August 20, 2003, the fee which is **\$1,450.00** as set out in 37 C.F.R. § 1.17(a). The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. § 1.16 and § 1.17, or credit any overpayment to Deposit Account 50-0310.
4. Fee Payment: The Commissioner is hereby authorized to charge **\$1,450.00** to Deposit Account No. 50-0310 for payment of the four-month extension of time fee.
5. Constructive Petition: **Except** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the

entire pendency of this application including fees due under 37 C.F.R. § 1.16 and § 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. § 1.136(a)(3).

Dated: **August 20, 2003**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-739-3000

Respectfully submitted,
Morgan, Lewis & Bockius LLP


Suzanne E. Ziska
Registration No. 43,371

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Alexandra Gruss <i>et al.</i>)	
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Application No. 10/088,657)	Group Art Unit: To be determined
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Date of National Stage Entry: March 20, 2002)	Examiner: To be determined
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For: Lactic Acid Bacteria Transformed To Be)	
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Assistant Commissioner for Patents
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Washington, D.C. 20231

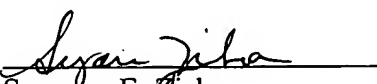
PETITION AND RESPONSE TO DECISION ON REQUEST UNDER 37 C.F.R. § 1.42

In response to the Decision on Request Under 37 C.F.R. § 1.42, Applicants petition for the acceptance of the attached Combined Declaration for Patent Application and Power of Attorney for the above-referenced application. Also attached is a statement naming the heirs of deceased joint inventor Patrick Duwat, an English translation of the statement and a declaration by the translator attesting to the translation. Under the intestacy laws of France, the wife and both daughters, as noted in the attached executed oath, are the heirs to the patent property. These three persons are the only known heirs to the deceased inventor Patrick Duwat. No legal representative of the deceased estate has been appointed or is statutorily required to be appointed.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and § 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. § 1.136(a)(3).

Dated: **August 20, 2003**
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Morgan, Lewis & Bockius LLP


Suzanne E. Ziska
Registration No. 43,371

REC PCT/PTO 20 AUG 2003

Notary in partnership
Successors in title to Maître Gayot & Ridet
Practice founded in 1625
2 quater rue de Fontenay
B.P. 275
78002 VERSAILLES Cedex
Tel.: 01.39.07.24.40
Fax: 01.39.07.24.44

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References to use in all correspondence
Case under the responsibility of Maître Gobillot/DA
Estate of Mr. Patrick Duwat

I the undersigned Maître Marc Ancelin, notary in partnership, member of the civil professional firm "Marc Ancelin & François Gobillot Notaries in partnership", holding the office of notary public, of 2 quater rue de Fontenay, VERSAILLES (Yvelines),

Certify and attest that the order of devolution of the property of Mr. Patrick Duwat is as follows:

The DECEASED is:

Mr. Patrick Ludovic Henri Duwat, who, in his lifetime, was a biological researcher, of 144, avenue de la République, MONTRouGE (Hauts-de-Seine) married to Mrs. Anne Michèle Bravard.

Born on August 16, 1964 at SAINT-MANDE (Val-de-Marne).

Deceased on January 5, 2000 at KREMLIN-BICETRE (Val-de-Marne).

Of French nationality.

Leaves in receipt of his estate:

1) Mrs. Anne Michèle Bravard, researcher, of 144, avenue de la République, MONTRouGE (Hauts-de-Seine).

Born on September 25, 1965, at NEVERS (Nièvre).

Of French nationality.

HIS SURVIVING WIFE.

Married to Mr. Duwat under the legal regime of marital community restricted to acquisitions, there being no prenuptial agreement prior to their marriage which was solemnized on December 28, 1999, at the town hall of KREMLIN-BICETRE (Val-de-Marne).

Having a life interest in one-fourth of the property constituting the estate by virtue of Article 767 of the Civil Code.

And, as persons having the capacity to inherit and to hold themselves out jointly as sole heirs of the entire estate or each separately of half the estate, excepting the rights of the surviving spouse:

1/ Miss Charlotte Noémie Duwat, of 144 avenue de la République MONTRouGE (Hauts-de-Seine),

Minor, unmarried,

Born on December 15, 1994 in PARIS (15th),

Of French nationality.

2/ Miss Coralie Manon Duwat, of 144 avenue de la République MONTRouGE (Hauts-de-Seine),

Minor, unmarried,

Born on July 10, 1997 at FONTENAY-AUX-ROSES (Hauts-de-Seine),

Of French nationality.

Both minors, under the authority and legal guardianship of their mother, the above-mentioned Mrs. Anne Duwat.

His **TWO DAUGHTERS** issue of his marriage with his surviving spouse.

As can be seen from a notarized deed received by Maître François Gobillot, the undersigned notary, on April 26, 2000.

Done in VERSAILLES
On SEPTEMBER 14, 2000

(signature)

Références à rappeler
dans toutes correspondances
Affaire suivie par: Me GOBILLOT/DA
Succession de Mr Patrick DUWAT

JE SOUSSIGNE Maître Marc ANCELIN, Notaire associé
membre de la Société Civile Professionnelle dénommée "Marc
ANCELIN et François GOBILLOT Notaires Associés", titulaire
d'un Office Notarial sis à VERSAILLES (Yvelines), 2
Quater, Rue de Fontenay,

CERTIFIE ET ATTESTE que la dévolution successorale
de Monsieur Patrick DUWAT s'établit ainsi qu'il suit :

Le DE CUJUS est :

Monsieur Patrick Ludovic Henri DUWAT, en son
vivant chercheur en biologie, demeurant à MONTRouGE
(Hauts-de-Seine), 144, Avenue de la République, époux de
Madame Anne Michèle BRAVARD.

Né à SAINT-MANDE (Val-de-Marne) le 16 AOUT 1964.

Décédé au KREMLIN-BICETRE (Val-de-Marne) le 05
JANVIER 2000.

De nationalité française.

Laissant pour recueillir sa succession :

1°) Madame Anne Michèle BRAVARD, Chercheur,
demeurant à MONTRouGE (Hauts-de-Seine), 144, Avenue de la
République.

Née à NEVERS (Nièvre) le 25 Septembre 1965.

De nationalité française.

SON EPOUSE SURVIVANTE

Mariée avec Monsieur DUWAT sous le régime légale
de la communauté de biens réduite aux acquêts à défaut de
contrat de mariage préalable à leur union célébrée à la
Mairie du KREMLIN-BICETRE (Val-de-Marne) le 28 Décembre
1999.

Usufruitière légale du quart des biens composant
la succession, en vertu de l'article 767 du Code Civil.

.../...



Et pour habiles à se dire et porter ses seuls héritiers conjointement pour le tout ou divisément chacun pour moitié, sauf les droits du conjoint survivant :

1°/ Mademoiselle Charlotte Noémie DUWAT, demeurant à MONTRouGE (Hauts-de-Seine), 144, Avenue de la République,
Célibataire mineure,
Née à PARIS (15ème) le 15 Décembre 1994.
De nationalité française.

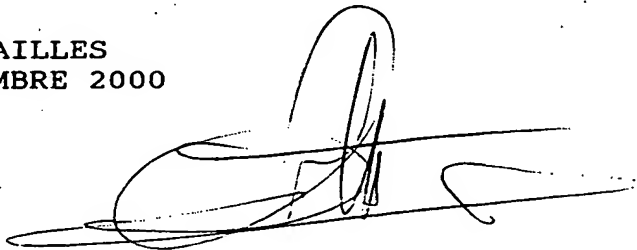
2°/ Mademoiselle Coralie Manon DUWAT, demeurant à MONTRouGE (Hauts-de-Seine), 144, Avenue de la République,
Célibataire mineure,
Née à FONTENAY-AUX-ROSES (Hauts-de-Seine) le 10 Juillet 1997.
De nationalité française.

Toutes deux mineures, sous l'administration sous contrôle judiciaire de leur mère, Madame Anne DUWAT, susnommée.

Ses DEUX FILLES issues de son union avec son épouse survivante.

AINSI que ces qualités sont constatées en un acte de notoriété reçu par Maître François GOBILLOT, Notaire soussigné, le 26 Avril 2000.

Fait à VERSAILLES
Le 14 SEPTEMBRE 2000



Rec'd PCT/PTO 20 AUG 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Alexandra GRUSS
Yves LE LOIR
Philippe GAUDU
Patrick DUWAT

Serial No: 10/088 657

Filed: September 20, 2000

For: LACTIC ACID BACTERIA TRANSFORMED TO BE PROVIDED WITH
RESPIRATORY METABOLISM

DECLARATION

I, Andrew Scott Marland, of 35, avenue Chevreul, 92270 BOIS COLOMBES, France, declare that I am well acquainted with the English and French languages and that the attached translation of a statement by a notary public concerning the estate of Patrick Duwat is a true and faithful translation of that document.

All statements made herein are to my own knowledge true, and all statements made on information and belief are believed to be true; and further, these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any document or any registration resulting therefrom.



Date: April 10, 2003

Andrew Scott Marland
